

TOWN OF KITTERY, MAINE
PLANNING BOARD MEETING
Council Chambers

APPROVED
June 28, 2012

Meeting called to order at 6:04 p.m.

Board Members Present: Thomas Emerson, Deborah Driscoll, Robert Melanson, Ann Grinnell, Rich Balano, Susan Tuveson

Members absent: David Kelly

Staff: Gerry Mylroie, Town Planner

Pledge to the Flag

Minutes: June 14, 2012

Mr. Melanson moved to accept the minutes of June 14, 2012 as amended

Ms. Driscoll seconded

Motion carries unanimously

Public Comment:

Public comment and opinion are welcome during this open session. However, comments and opinions related to development projects currently being reviewed by the Planning Board will be heard only during a scheduled public hearing when all interested parties have the opportunity to participate.

Gail Burns thanked the Planning staff for meeting with her to discuss the proposed cluster development amendments.

There was no further public comment.

ITEM 1– Town Code Title 16 Land Use Development Code Amendments. Action: review and determine recommendation to Town Council regarding: Residential and Mixed Use Cluster Development: a.) Article XI Cluster Residential and Cluster Mixed-Use Development; b.) Chapter 16.2, Definitions; and c.) Article II, Zone Definitions, Uses, Standards.

Mr. Mylroie presented addendum recommendations to Article XI:

1. Water and sewer systems, public/shared vs. private/separate

Board members discussed various scenarios regarding public, private and shared sewer systems as they relate to cluster development, including location of shared systems in common open spaces within cluster developments.

Ms. Tuveson moved to edit language to section 16.8.11.6.c. to read: *Public or privately shared sewer and water must be provided unless it is demonstrated to the Planning Board's satisfaction that alternative methods used result in a development that is compatible with Section 16.8.11*; and to eliminate the following language in Article II, D.3.a. Zone Standards, *i. Public or privately shared sewer and water must be provided.*

Ms. Grinnell seconded

Motion carries unanimously by all members present

2. No cut buffer in development setback

Board members discussed the impact of revising the existing language (Table 16.9) to require only a portion of the setback (75%) remain as a no-cut buffer, allowing cutting in up to 25% of the wetland and water bodies setback. Board members concurred that no action would be taken to revise the existing setback requirements and no cut buffer.

3. Common Open Space definition

Proposed revisions to the definition were not supported by the Board.

4. Code reference update

Administrative correction changing Article XIII to Article XI in 16.3.2.4.D.4. *In the case of housing for the elderly, the above standards may be modified in accordance with the special provisions of Article XI of Chapter 16.8...*

Ms. Tuveson so moved

Mr. Melanson seconded

Motion carries unanimously by all members present

5. Public open space approval sequence

Because a development that proposes public open space, Town Council acceptance of the public open space is required. Determination of acceptance by the Council should be established prior to final plan review by the Board.

Ms. Grinnell moved to include new language in Section 16.8.11.5, B. *An applicant with a project that includes proposed public open space must obtain Town Council acceptance for the public land or easement following Preliminary Plan approval. Town Council acceptance is contingent upon receipt of Final Plan approval by the Planning Board.*

Mr. Melanson seconded

Motion carries unanimously by all members present

Mr. Melanson moved to include corrective language: *Minimum principal building separation as required by the Fire Chief, but not less than 20 feet.*

Mr. Balano seconded

Mr. Balano requested that the motion include the relevant section number

Mr. Melanson amended his motion to reference Article II, Section 16.3.2.1.D.3.a.i.

Mr. Balano seconded the amended motion

Motion carries unanimously by all members present

Original motion action:

Motion carries unanimously by all members present

Board members reviewed the proposed Article XI amendment, with the following changes:

Mr. Balano moved to revise the language in Section 16.8.11.6.I.1 Orientation. *Buildings should be sited to consider natural light and ventilation.*

Mr. Melanson seconded

Motion carries unanimously by all members present

Ms. Grinnell moved to edit the language in Section 16.8.11.6.I.2 Utility Installation, by removing the quotation marks around *prudent avoidance*.

Mr. Melanson seconded

Motion carries with five in favor; one abstention

Association Responsibilities. Board members amended the section to better identify developer and association responsibilities regarding open space and other common facility maintenance, including financial obligations of both parties. The following sentence was included in 16.8.11.7.D.1 Maintenance:

Associations must maintain adequate funds to defray these expenses. The Planning Board shall require an initial capital fund for associations to be paid by the developer to cover these expenses.

Ms. Grinnell so moved

Ms. Driscoll seconded

Motion carries unanimously by all members present

Mr. Emerson requested another clean copy of this Article be provided to the Board for the July 12, 2012 meeting.

Ms. Tuveson moved to defer Item 2 to the end of the agenda.

Mr. Balano seconded

Motion carries unanimously by all members present

Break

ITEM 2– Town Code Title 16 Land Use Development Code Amendments. Action: review and determine recommendation to Town Council regarding: Administrative Corrections and Updates.

Board members reviewed the administrative changes and corrections. No motion for acceptance/approval was made. A clean copy will be provided for further review. **Ms. Tuveson** asked for an electronic copy.

NEW BUSINESS:

ITEM 3 – 10 thru 16 Jewett Lane - Subdivision Plan Review– Minor Subdivision. Action: accept or deny application and determine if to schedule a Public Hearing. Brenda MacKenzie, owner and applicant, requests approval to create a subdivision to include four lots formerly part of a family subdivision located along Jewett Lane, in the Residential Rural Zone, Tax Map 29, Lots 20A, 20B1, 20C and 20D. Agent is Ken Markley, North Easterly Survey, Inc.

Mr. Mylroie summarized the request and read the following from Ken Markley:

This lot was originally 5.88 acres and was divided into 4 single family residence house lots in 2008. This plan was not reviewed by the planning board at that time because it was intended to be a “family subdivision”. Lots were sold to abutting neighbors and to family members. Unfortunately, the sequence of ownership transfers involving these lots may have violated the rules under which family subdivisions are allowed. Therefore, it is necessary to present this subdivision to the planning board for approval so that all chains of title are free and clear of any future encumbrances.

Additionally, the applicant has requested waivers for plan scale and for subdivision requirements L-O and Q-Z.

Jeff MacKenzie, owner’s representative, summarized the history of the family subdivision development. He first purchased the property in 1999 and sold one piece in 2002 to a non-relative, and built a home on parcel C in 2003, retaining ownership of parcels A, B, C, and D. He explained the plan was recorded in 2008, and he believed he followed the necessary steps to create a family subdivision without Board approval.

Board members agreed they need additional information before they can make a decision. A copy of the 2008 recorded subdivision plan and a memo from Duncan McEachern regarding the issue before them, including a timeline of events would help them to better understand the issues.

Mr. Melanson moved to schedule a public hearing on this item at the July 12, 2012 meeting.

Ms. Grinnell seconded

Motion carries unanimously by all members present

ITEM 4 – 8 & 10 Pettigrew Road –Subdivision Plan Review– Minor Subdivision. Action: accept or deny application and determine if to schedule a Public Hearing. Gary and Angela Hayward, owner and applicant, requests approval to create a subdivision to include three dwelling units located in the Residential Rural Zone, Tax Map 54, Lots 4A, 4A1 and 4A2. Agent is Ken Markley, North Easterly Survey, Inc.

Mr. Mylroie explained the applicant wishes to add an apartment above an existing garage, creating a minor subdivision. Gary Hayward explained he created a family subdivision then sold one lot. The inclusion of a dwelling unit within the five year period creates a subdivision requiring Board review.

Mr. Melanson moved to schedule a public hearing on this item for the July 26, 2012 meeting.

Ms. Tuveson seconded

Motion carries unanimously by all members present

ITEM 5 – Town of Kittery and York Hospital –Site Plan Amendment – Minor Modification / Phasing and Streetscape Plan. Action: Acceptance / Review / Decision. Town of Kittery and York Hospital request approval to amend a previously approved site plan for the York Hospital development to include a phased development for occupancy permitting purposes and an updated streetscape design. Changes required due to the State's construction scheduling. The two phases include: 1) building/rear of site and 2) site streetscape improvements. Property located at 35 Walker Street at State Road in the Business Local 1 and Kittery Foreside Zones; Tax Map 4 Lot 168. Agent is Joseph Cheever, EIT, with Attar Engineering.

Mr. Mylroie explained that the phasing request is necessary for an occupancy permit, providing for completion of site landscaping improvements (Phase 1) and delaying completion of streetscape improvements (Phase 2) until completion of road and intersection improvements. Phase 1 includes landscaping amendments.

Susan Tuveson asked about the changes to the plan, specifically the relocation of the chiller units from on-site to within the wetland setback.

Steve Pelletier, York Hospital, stated the chiller location was originally to the left of the south side of the building and received a field change from the CEO to relocate the chiller units.

Earldean Wells asked how the relocation of the chiller units into the wetland setback will impact stormwater management and the use of the detention ponds.

Mr. Pelletier explained that construction along the front of the building must be delayed to meet the construction schedule of Route 1 and Walker Street. Regarding site plan changes, Attar Engineering would have to address these.

Ms. Tuveson moved to accept the landscape phasing proposal as presented.

Mr. Melanson seconded

Motion carries unanimously by all members present

Mr. Emerson requested information regarding the site changes be addressed by the Code Enforcement Officer.

Ms. Grinnell asked if the CEO has the authority to amend a site plan without Planning Board approval.

Mr. Mylroie stated yes, if it is a minor amendment or field change. A notification is supposed to be provided to the Planning Board.

ITEM 6 –Town Planner Items: A. Lewis Farm Phase III conservation subdivision Request for Extension request; B. T-15 Contract Zoning Planning Board response to Town Council; C. Quality Improvement Plan for Kittery Foreside Status and D. Comprehensive Plan Update and E. Other Updates.

- A. Lewis Farm Phase III – Request for one year extension to complete road, from the date signed by Planning Board Chairman Russell White on 7/14/11.

Mr. Balano moved to grant a one-year extension to the Lewis Farm Phase III subdivision to 7/14/13

Ms. Tuveson seconded

Motion carries unanimously by all members present

Lewis Farm Phase III – Approval of street name from Road H to “Farmers Wall Lane”

Mr. Melanson moved to grant approval of the road name Farmers Wall Lane

Ms. Driscoll seconded

Motion carries unanimously by all members present

- D. Comprehensive Plan

Ms. Grinnell moved to retain Deborah Driscoll as the Planning Board representative to the Comprehensive Plan Update committee

Ms. Tuveson seconded

Motion carried with 5 in favor, 1 abstention (Driscoll)

- B. Contract Zoning

Comprehensive Plan Update Committee will meet on 7/25/12 to discuss gathered information regarding Contract Zoning.

- C. Kittery Foreside Plan.

Ms. Grinnell recommended that each group representing areas of town keep minutes and provide updates to the Planning Board. The Kittery Foreside group felt parking is the largest issue, and a parking garage was discussed. Shipyard workers use the parking all day, and this will be reported to the police chief by the Town Manager. Mr. Mylroie reported on the use of Business Improvement Districts whereby monies can be raised for the common use of the District members. Ms. Grinnell noted, however, those businesses that not contribute would benefit from those who do. Other topics discussed included:

1. Waterfront use
2. Water taxi
3. Walker Street lighting
4. Next meeting will be held July 11

Ms. Driscoll noted a monthly or bi-weekly report from these committees would help inform the Board.

Mr. Emerson noted his concern with bicycles and pedestrians on the bridge.

Mr. Melanson moved to adjourn

Ms. Tuveson seconded

Motion carries unanimously by all members present

The Kittery Planning Board meeting of June 28, 2012 adjourned at 9:35 p.m.

Submitted by Jan Fisk, Recorder – July 1, 2012